



Question

Whether the installation and operation of 2 no. specialised degassing machines for the treatment of 7,000 tonnes of refrigerators and freezers per annum is or is not development or is or is not exempted development.

Location

KMK Recycling Limited, Moate Road, Kilbeggan, Co. Westmeath.

Declaration

Planning Authority

Westmeath County Council

Planning Authority Reg. Ref.

S5-18-19

Applicant for Declaration

KMK Metals Recycling Ltd.

Planning Authority Decision

Is not exempted development

Referral

Referred by

KMK Metals Recycling Ltd.

Owner/ Occupier

Kilbeggan Roofing and Steel (owner)
KMK Metals Recycling Ltd. (occupier)

Date of Site Inspection

20/02/2020

Inspector

Conor McGrath

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1.0 Site Location and Description

- 1.1. The referral site is located on the western side of Kilbeggan and comprises one of two large industrial buildings accessed from the R446, formerly the N4. The facility building is operated as an existing waste recovery and recycling facility by KMK Metals Recycling Ltd.

2.0 The Question

- 2.1. A S.5 declaration was sought by KMK Metals Recycling from Westmeath Co. Co. on 10th September 2019, in relation to:

The installation and operation of 2 no. specialised degassing machines for the treatment of 7,000 tonnes of refrigerators and freezers per annum to facilitate the shredding, recycling and reclamation of the fridge / freezer materials.

The S.5 request was accompanied by an Environmental Screening Report.

3.0 Planning Authority Declaration

3.1. Declaration

The planning authority issued a declaration on 24th October 2019 stating Westmeath County Council has concluded that:-

The installation and operation of 2 no. specialised degassing machines for the treatment of 7,000 tonnes of refrigerators and freezers per annum to facilitate the shredding, recycling and reclamation of the fridge / freezer materials constitutes development being works constituting a material change from the permitted activity at the facility.

The works being the installation of 2 no. degassing machines, are exempted development by virtue of S.4(h) of the Planning and Development Act 2000, as amended and Class 21 of the Planning and Development Regulations 2001 (as amended).

The use, being the operation of 2 no. specialised degassing machines for the treatment of 7,000 tonnes of refrigerators and freezers per annum to facilitate the shredding, recycling and reclamation of the fridge / freezer materials, is not exempted development

The material changes to permitted practise at the facility is not exempted development.

Westmeath County Council hereby decides that:-

The installation and operation of 2 no. specialised degassing machines for the treatment of 7,000 tonnes of refrigerators and freezers per annum to facilitate the shredding, recycling and reclamation of the fridge / freezer materials at KMK Metals recycling Ltd, Moate Road Kilbeggan constitutes development being works which constitute a material departure from the permitted practise at the facility, being development that is not exempted development.

3.2. Planning Authority Reports

3.2.1. Planning Reports

20/10/2019 Environment section indicate that degassing is an intrinsic part of WEEE process. PA ref. 16/6002 related to non-hazardous waste only and did not include fridges / freezers. PA ref. 17/6372 indicated that fridges / freezers were to be limited to intake, inspection, decontamination and sending off-site to a treatment facility. Proposed degassing is therefore a new process, not part of 17/6372.

The site currently operates under PA ref. 16/6002, as 17/6372 has not yet been implemented, pending an Industrial Emissions Licence. The S.5 application describes the use as ancillary to that authorised under 17/6372, which application indicated that degassing was to occur off-site. Degassing activities are not in accordance with the plans and details submitted under 17/6372 and are a new process materially different from that authorised.

Structures are considered to be exempt under S.4(h). Neither existing or proposed uses are considered to fall within the definition of Light Industrial Uses. The

installation by an industrial undertaker, or erection by way of addition or replacement of plant or machinery, is considered exempted development under Class21

22/10/2019 Specific activities were authorised on the site under PA ref. 17/6372. The dismantling and shredding processes proposed are similar to those authorised for Large Household Appliance treatment and would not in themselves result in a material change. The degassing and recovery processes and storage of gases and mineral oil is not similar to other processes authorised on the site. The environmental consequences had not been assessed in any planning application and EIA. The proposed use amounts to a materially different and significant departure from the proposals submitted and reviewed under previous planning permissions and contravenes condition no. 1 of 17/6372 to which this application relates.

3.2.2. Other Technical Reports

Environment (by email): Degassing would be an intrinsic part of processing WEEE and therefore Environment would not consider it to be a material change of use. Emissions (fugitive or otherwise) would be conditioned by EPA as part of the Industrial Emissions Licence and degassing would be subject to licencing. Environment would not consider that the use of degassing equipment would introduce any additional significant issues for the existing EIA.

4.0 Planning History

4.1. PA ref. 16/6002 ABP ref. PL 25M.247256:

Permission granted for change of use of an existing building from light industrial use to the recycling of metal and waste electrical and electronic equipment (WEEE) and associated works. The activity requires an EPA Waste Licence / IED Licence.

Financial contribution conditions were the subject of a first party appeal.

The application indicated that the facility has a maximum capacity of 20,000 tonnes per annum, however, it would initially operate within the 10,000 tonnes limit set by a Waste Facility Permit. Any increase beyond this limit would be subject to an EPA

licence application. At further information stage it was confirmed that the proposed annual intake would be 10,000 tonnes per annum.

Conditions included:

1. The development shall be carried out strictly in accordance with the plans and details received by the Planning Authority on 4th January 2016 as amended by revised plans and particulars submitted on the 18th July 2016 except as may otherwise be required in order to comply with the following conditions.
12. This permission refers exclusively to change of use of an existing building from light industrial use to the recycling of metal and waste electrical and electronic equipment (WEEE). Permission is also sought for 2 no. external weighbridge, external air handling unit, 2 no. external covered storage bays and an external container tilting machine to the west of the existing building, to retain the existing building as constructed including the provision of an external plant room to the rear of the building and the provision of a boundary fence along the eastern boundary of the site. The development proposed under this planning application is for the purposes of an activity requiring a Waste Facility Permit in accordance with the attached conditions and does not refer to any other structure or installation or uses within the site. Any other structure in so far as its use maybe unauthorised shall be subject to a further grant of permission.

4.2. **PA ref. 17/6372:**

Permission granted for intensification of use at this site from 10,000 tonnes of WEEE and metal waste per annum to 50,000 tonnes of WEEE and metal waste per annum and installation of a second external air handling unit and associated works. An Environmental Impact Statement was submitted with this application and the development requires an Industrial Emissions Licence from the EPA.

Conditions attaching to the permission included:

1. The development shall be retained strictly in accordance with the plans and details received by the Planning Authority on 22/12/17 except for any alterations or modifications specified below.

12. The applicant must have in place, an Industrial Emissions Licence (IED) as issued by the Environmental Protection Agency (EPA) before the intensity of the waste activity can be increased at the facility. The Waste Facility Permit (WFP-WH-2016-07) shall remain in force until such time as an IED licence has been approved.

4.3. EPA Industrial Emissions Licence, Register Number P1076-01

This application relates to the development granted planning permission under ref. 17/6372. The activity is described as a proposal to treat up to 50,000 tonnes per annum of waste electrical and electronic equipment (WEEE) and metals for efficient recovery and reuse of valuable secondary raw materials.

The proposed processing of fridges, freezers and WEEE fractions will be limited to their intake at Yard C, inspection, decontamination (if necessary) and sending off-site to a dedicated and fully authorised treatment facility. The degassing and recovery of fridges / freezers were not part of this licence application.

That development has not yet commenced on the site and is subject to the granting of an IED. The EPA issued notice on 06/02/2020 of their intent to grant a licence in respect thereof.

5.0 The Referral

5.1. Referrer's Case

KMK Metals Recycling Ltd make the following points in their referral to the Board

- The operation of the two machines does not constitute a change of use from permitted activity and does not constitute development.
- Permission has previously been granted for an increase in waste processing to 50,000 tonnes of WEEE waste, which was subject to an EIAR.
- An EPA waste licence must be in place before increased tonnage can be accepted at the site.

- Existing processes include the storage of refrigeration units prior to transport off-site.
- Proposed processes involve the degassing, shredding and reclamation of refrigeration units and temporary storage of recovered gas and oils.
- The machines are self-contained and there will be no emissions to air or water.
- The submitted EIA Screening Assessment concludes that there will be no significant environmental effects.
- The tonnage of refrigeration units to be processed is accounted for in the permitted development on the site, 17/6372 and there is no increase in waste intake associated with the use.
- The proposal is consistent with the existing permitted use on the site and no material change of use arises.

5.2. Planning Authority Response

No response to the referral has been received from the planning authority.

6.0 Statutory Provisions

6.1. Planning and Development Act, 2000 as amended

Section 2

“works” includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal

Section 3.—(1) In this Act, “development” means, except where the context otherwise requires, the carrying out of any works on, in, over or under land or the making of any material change in the use of any structures or other land.

Section 4.—(1) The following shall be exempted developments for the purposes of this Act—

- (h) development consisting of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which affect only the interior of the structure or which do not materially affect the external

appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures;

6.2. **Planning and Development Regulations, 2001, as amended**

Part 2 Exempted Development - Article 5.

“industrial building” means a structure (not being a shop, or a structure in or adjacent to and belonging to a quarry or mine) used for the carrying on of any industrial process;

“light industrial building” means an industrial building in which the processes carried on or the plant or machinery installed are such as could be carried on or installed in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit;

"industrial process" means any process which is carried on in the course of trade or business, other than agriculture, and which is-

(a) for or incidental to the making of any article or part of an article, or

(b) for or incidental to the altering, repairing, ornamenting, finishing, cleaning, washing, packing, canning, adapting for sale, breaking up or demolition of any article, including the getting, dressing or treatment of minerals,

“industrial undertaker” means a person by whom an industrial process is carried on and “industrial undertaking” shall be construed accordingly;

Article 6(1)

Subject to article 9, development of a class specified in column 1 of Part 1 of Schedule 2 shall be exempted development for the purposes of the Act, provided that such development complies with the conditions and limitations specified in column 2.

Article 9 Restrictions on exemption.

(1) Development to which article 6 relates shall not be exempted development for the purposes of the Act—

- (a) if the carrying out of such development would—
 - (i) contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act,

Article 10 Changes of use.

- (1) Development which consists of a change of use within any one of the classes of use specified in Part 4 of Schedule 2, shall be exempted development for the purposes of the Act, provided that the development, if carried out would not—
 - (a) involve the carrying out of any works other than works which are exempted development,
 - (b) contravene a condition attached to a permission under the Act,
 - (c) be inconsistent with any use specified or included in such a permission, or
 - (d) be a development where the existing use is an unauthorised use, save where such change of use consists of the resumption of a use which is not unauthorised, and which has not been abandoned

Schedule 2 – Part 1 Exempted Development

Development for industrial purposes

CLASS 21

- (a) Development of the following descriptions, carried out by an industrial undertaker on land occupied and used by such undertaker for the carrying on, and for the purposes of, any industrial process, or on land used as a dock, harbour or quay for the purposes of any industrial undertaking—
 - (iii) the installation or erection by way of addition or replacement of plant or machinery, or structures of the nature of plant or machinery.
- (b) Any works for the provision within the curtilage of an industrial building of a hard surface to be used for the purposes of or in connection with the industrial process carried on in the building.

Where

1. Any such development shall not materially alter the external appearance of the premises of the undertaking.
2. The height of any plant or machinery, or any structure in the nature of plant or machinery, shall not exceed 15 metres above ground level or the height of the plant, machinery or structure replaced, whichever is the greater.

6.3. **Waste Management Act 1996, as amended**

S4(1) definitions

“activity” includes operation;

“hazardous waste” means waste which displays one or more of the hazardous properties listed in the Second Schedule;

“recovery” —

- (a) means any operation the principal result of which is waste serving a useful purpose by replacing other materials which would otherwise have been used to fulfil a particular function, or waste being prepared to fulfil that function, in the plant or in the wider economy, and
- (b) without prejudice to the generality of paragraph (a), includes the recovery operations listed in the Fourth Schedule ,

and “waste recovery activity” shall be construed accordingly;

“waste” means any substance or object which the holder discards or intends or is required to discard.

S5(1) “recycling” —

- (a) subject to paragraph (b), means any recovery operation by which waste materials are reprocessed into products, materials or substances, whether for the original or other purposes, including there processing of organic material,
- (b) does not include —
 - (i) energy recovery, and
 - (ii) the reprocessing into materials that are to be used as fuels or for backfilling operations;

6.4. **Natural Heritage Designations**

The subject site is not designated for any natural heritage or conservation purposes. The closest sites are Split Hills and Long Hill Esker SAC 2.5km north of the site. A branch of the Grand Canal approx. 1.8km east of the site is identified as a proposed NHA.

7.0 **Assessment**

7.1. It should be noted that the purpose of this referral is not to determine the acceptability or otherwise of the subject matter in respect of the proper planning and sustainable development of the area, but rather whether or not the matter in question constitutes development, and if so falls within the scope of exempted development. The onus of proof is on the party seeking to prove the exemption, and the development in question must fall clearly and unambiguously within the terms of the exemption claimed.

7.2. **What is involved:**

7.2.1. Existing uses on the site are carried out under the permission granted under PA ref. 16/6002. The approved intake under that permission is 10,000 tonnes per annum comprised of the following items:

- Large Household items
- Small household items
- Refrigeration Appliances
- IT & Telecom equipment
- Cathode Ray Tube, TV's and monitors
- Lighting (FL and CFL's)
- Batteries

The intake was not broken down between these uses in that application.

- 7.2.2. With regard to refrigeration appliances, these were noted to comprise hazardous waste and the application limited the processing of such appliances to intake, inspection, decontamination and dispatch off-site to a dedicated treatment facility.
- 7.2.3. Under PA ref. 17/6372, permission was subsequently granted for an increased intake at the facility of up to 50,000 tonnes per annum. There was no proposed changes to the processes for the handling and treatment of fridges and freezers at the facility.
- 7.2.4. The referral relates to the intake and processing of 7,000 tonnes of refrigeration appliances per annum. The documentation submitted describes the processes as follows:

Stage 1: Preparation and Drainage of gases and oils from fridges and freezers.

This includes initial inspection and decontamination of appliances, and the removal of all recoverable materials such as cables, seals etc prior to draining of cooling gases and oils and removal of compressors.

Stage 2: Shredding

Coarse shredding to separate out constituent parts (metals, plastics, rubbers and insulation foam).

Stage 3: Recovery of Ozone Depleting Substances (ODS) from insulating foam through a condensing process to remove volatile gases and reduce the foam to PU pellets. Other fractions are separated and packaged for recovery / recycling.

Recovered gases are stored on-site for collection and treatment off-site.

7.3. Works

- 7.3.1. The activities the subject of this referral require the installation of degassing and shredding plant within the existing industrial buildings. The installation of such plant would constitute works and would therefore constitute development. Precise details of the plant to be installed on the site are not provided, however, sample details of plant have been submitted. These are similar to existing plant at the facility and will be provided internally within the existing buildings, with no impact on the visual appearance of the site or on the character of the surrounding area. This

development would therefore be exempt under S.4(1)(h) and would fall within the exemption available under Class 21 of Schedule 2 Part 1, of the Planning and Development Act 2000, as amended.

- 7.3.2. The installation of such plant would not expressly contravene a condition attached to planning permissions in relation to this site or be inconsistent with any use specified in a permission under the Act.

7.4. Change of Use

- 7.4.1. Under PA ref. 16/6002, use of the site changed from light industrial to use as a recycling facility, including WEEE recovery processes. The proposed use would be in accordance with this permitted use.
- 7.4.2. PA ref. 16/3002 described the treatment and processing of fridges and freezers as intake, inspection, decontamination and dispatch off-site. The shredding and dismantling processes proposed are similar to existing permitted processes carried out on the site for large household appliances and would not result in a material change. The most significant difference therefore relates to the use of specialised machines to drain / degas the cooling systems and to capture gases from the insulating foam of fridges and freezers, and the storage of recovered gases and of oils pending transport off-site for treatment.
- 7.4.3. This is a change in the treatment of these specific classes of appliances from that previously described under 16/6002. In accordance with the definition of development under Section 3(1), it falls to be considered whether this change constitutes a material change of use of the site. Regard is therefore had to the case of Galway Co. Co. v Lackagh Rock Ltd., wherein Barron J. indicated: "To test whether or not the uses are materially different what should be looked at are the matters which the planning authority would take into account in the event of a planning application being made either for the use on the appointed day or for the present use. If these matters are materially different, then the nature of the use must be materially different".

The question is whether there are sufficient planning considerations raised by the change in process to justify its submission to development control. In this regard I note the following points:

- No site development works are required beyond installation of plant within existing buildings and no demolition activity is required.
- There will be no increase in the previously permitted levels of waste intake at the facility arising from this proposal.
- Significant increases in traffic volumes are not anticipated, based on the volumes forecast under 16/6002 and reported under 17/6372.
- There is no requirement for the use or loss of natural resources for the subject processes.
- The process is associated with the treatment and recovery of WEEE waste and will not give rise to additional waste generation.
- Existing processes for televisions and monitors includes the use of specialised plant for the extraction of hazardous substances from LCD displays including mercury-containing lamps.
- The activities will not give rise to emissions to air or water. The existing Waste Permit and the draft IED licence, place limits on emission to air and water, as well as dust and noise emissions.
- I note the report from the planning authority Environment Section, wherein it is indicated that degassing would be part of normal WEEE processing and would not introduce any significant additional issues from their point of view.

7.4.4. The planning authority declaration states that the use would materially depart from the permitted uses on the site, however, the basis for this conclusion is not identified nor the particular planning considerations which are considered to arise. Having regard to the foregoing, I do not consider that the proposal would give rise to materially different matters, or that new or additional planning considerations would arise from the proposed use on the site. I do not therefore consider that the proposal gives rise to a material change of use, or that the proposed use constitutes development.

7.4.5. With regard to PA ref. 17/6372, I do not consider that an activity can be regarded as exempted development associated with a permitted use, where that use has not yet been commenced. The use should be implemented in the first instance prior to the carrying out of the subject processes in order to be able to avail of the exempted development provisions.

7.5. Compliance with conditions

- 7.5.1. Planning permission under 16/6002 has been implemented and was subject to condition no. 1 which required that the development be carried out strictly in accordance with the plans and details received by the Planning Authority. There is no basis to consider that this has not been complied with to date.
- 7.5.2. The planning reports on this case conclude that the proposed use amounts to a material and significant departure from the proposals submitted and reviewed under 16/6002 and 17/6372 and are therefore contrary to condition no. 1 thereof. The declaration of the planning authority does not, however, refer to condition no. 1.
- 7.5.3. The permitted development under 16/6002 describes the treatment of fridge and freezer appliances as intake, inspection, decontamination and dispatch off-site. The proposed process does constitute change to the treatment of these appliances. I have already concluded above, however, that the change would not give rise to material planning considerations and in this regard therefore, I do not consider that the use would materially contravene condition no. 1 of 16/6002.

8.0 EIA Screening

Environmental Screening Report

- 8.1. The S.5 Declaration application was accompanied by an Environmental Screening Report, which describes the characteristics of the proposed development and potential impacts.
- 8.2. I have concluded above that the installation of plant and machinery associated with the subject processes constitutes works and is development, and that such development is exempted development. I have further concluded that the change in processes described is not a material change in the use of the site and is not therefore development. In this regard, the Screening Determination accompanying this report considers the development, comprising installation of plant and machinery only and does not relate to the change in processes on the site.

8.3. Conclusion

Having regard to

- i. The nature and scale of the development the subject of this Section 5 referral, which does not exceed the thresholds set out in Schedule 5 of the Planning and Development Regulations 2001, as amended;
- ii. The location of the site on lands zoned for Enterprise and Employment uses in the Westmeath County Development Plan 2014 – 2020, and the results of the Strategic Environmental Assessment of the plan;
- iii. The location of the site outside any sensitive location identified in article 109(4)(a) of the Planning and Development Regulations 2001, as amended, and the absence of any likely significant effects thereon.
- iv. The guidance set out in “Environmental Impact Assessment Guidelines for Consent Authorities regarding sub-threshold Development”, Dept of the Environment, Heritage and Local Government (2003), and
- v. The criteria set out in Schedule 7 of the Planning and Development Regulations 2001, as amended

It is considered that the proposed development would not be likely to have significant effects on the environment and that the preparation and submission of an environmental impact assessment report would not therefore be required.

9.0 AA Screening

The site is not located within or adjacent to any Natura site. The closest sites are identified below:

Site	Site Name	Distance	Qualifying Interests (* denotes priority habitat)
001831	Split Hills and Long Hill Esker SAC	~2.5km	Habitats 6210 Semi-natural dry grasslands and scrubland facies on calcareous substrates (* important orchid sites)

000572	Clara Bog SAC	7km	Habitats 6210 Semi-natural dry grasslands and scrubland facies on calcareous substrates (Festuco-Brometalia) (* important orchid sites) 7110 Active raised bogs* 7120 Degraded raised bogs still capable of natural regeneration 7150 Depressions on peat substrates of the Rhynchosporion 91D0 Bog woodland*
000685	Lough Ennell SAC	~8.5km	Habitats 7230 Alkaline fens
000582	Raheenmore Bog SAC	10.5km	Habitats 7110 Active raised bogs* 7120 Degraded raised bogs still capable of natural regeneration 7150 Depressions on peat substrates of the Rhynchosporion
000571	Charleville Wood SAC	10.6km	Habitats 91A0 Old sessile oak woods with Ilex and Blechnum in the British Isles Species 1016 Desmoulin's Whorl Snail (Vertigo moulinsiana)
004044	Lough Ennell SPA	~9km	Birds A061 Tufted Duck (Aythya fuligula)

- 9.1. The activities are not directly connected with or necessary to the management of any European Site. The activities occur within an existing industrial premises on zoned lands and connected to existing wastewater services. There are no emissions to air or water associated with the proposal and there are no connections between the site and these Natura sites. I note also that PA ref. 17/6372 was subject to screening for AA, which concluded that significant impacts were not likely.
- 9.2. It is reasonable to conclude on the basis of the information on the file, which I consider adequate to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on any European Site, in particular Split Hills and Long Hill Esker SAC, Clara Bog SAC, Lough Ennell SAC, Raheenmore Bog SAC, Charleville Wood SAC and Lough Ennell SPA, having regard to their conservation objectives and a Stage 2 Appropriate Assessment is not therefore required.
- 9.3. In reaching this conclusion I took no account of mitigation measures intended to avoid or reduce the potentially harmful effects on the conservation objectives of any European Site.

10.0 Recommendation

10.1. I recommend that the Board should decide this referral in accordance with the following draft order.

WHEREAS a question has arisen as to whether the installation and operation of 2 no. specialised degassing machines for the treatment of 7,000 tonnes of refrigerators and freezers per annum to facilitate the shredding, recycling and reclamation of the fridge / freezer materials, is or is not development or is or is not exempted development:

AND WHEREAS KMK Metals Recycling Limited requested a declaration on this question from Westmeath County Council and the Council issued a declaration on the 24th day of October, 2019 stating that the matter was development and was not exempted development:

AND WHEREAS KMK Metals Recycling Limited referred this declaration for review to An Bord Pleanála on the 19th day of November 2019:

AND WHEREAS An Bord Pleanála, in considering this referral, had regard particularly to –

- (a) Section 2(1) of the Planning and Development Act, 2000, as amended,
- (b) Section 3(1) of the Planning and Development Act, 2000,
- (c) Section 4(1)(h) of the Planning and Development Act, 2000, as amended,
- (d) Article 6(1) and article 9(1) of the Planning and Development Regulations, 2001, as amended,
- (e) Class 21 of Schedule 2 of Part 1 to the Planning and Development Regulations, 2001, as amended,

AND WHEREAS An Bord Pleanála has concluded that:

- (a) The installation of 2 no. specialised degassing machines for the treatment of 7,000 tonnes of refrigerators and freezers per annum to facilitate the shredding, recycling and reclamation of the fridge / freezer materials, constitutes works and is development.
- (b) The works, comprising installation of 2 no. specialised degassing machines, are exempted development having regard to Section 4(1)(h) of the Planning and Development Acts 2000, as amended and Class 21 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001 as amended.
- (c) The operation of 2 no. specialised degassing machines for the treatment of 7,000 tonnes of refrigerators and freezers per annum to facilitate the shredding, recycling and reclamation of the fridge / freezer materials, is a change to the permitted use on the site but such change is not material.
- (d) The operation of 2 no. specialised degassing machines is therefore not development.

Furthermore, with regard to the installation of 2 no. specialised degassing machines for the treatment of 7,000 tonnes of refrigerators and freezers per annum to facilitate the shredding, recycling and reclamation of the fridge / freezer materials, An Bord Pleanála has determined, having regard to

- i. The nature and scale of the development the subject of this Section 5 referral, which does not exceed the thresholds set out in Schedule 5 of the Planning and Development Regulations 2001, as amended;
- ii. The location of the site on lands zoned for Enterprise and Employment uses in the Westmeath County Development Plan 2014 – 2020, and the results of the Strategic Environmental Assessment of the plan;
- iii. The location of the site outside any sensitive location identified in article 109(4)(a) of the Planning and Development Regulations 2001, as amended, and the absence of any likely significant effects thereon.

- iv. The guidance set out in “Environmental Impact Assessment Guidelines for Consent Authorities regarding sub-threshold Development”, Dept of the Environment, Heritage and Local Government (2003), and
- v. The criteria set out in Schedule 7 of the Planning and Development Regulations 2001, as amended

that the development would not be likely to have significant effects on the environment and that the preparation and submission of an environmental impact assessment report would not therefore be required.

NOW THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by section 5 (3) of the 2000 Act, hereby decides that the

- (a) The installation of 2 no. specialised degassing machines for the treatment of 7,000 tonnes of refrigerators and freezers per annum to facilitate the shredding, recycling and reclamation of the fridge / freezer materials, is development and is exempted development.
- (b) The operation of 2 no. specialised degassing machines for the treatment of 7,000 tonnes of refrigerators and freezers per annum to facilitate the shredding, recycling and reclamation of the fridge / freezer materials, is not development.

Conor McGrath

Senior Planning Inspector

24/02/2020